

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF INSURANCE
Frankfort, Kentucky 40601

LIABILITY RISK RETENTION GROUPS

The Liability Risk Retention Act (as amended by P.L. 99-563 in 1986), 15 U.S.C. §3901 et seq., requires registration of liability risk retention groups doing business in Kentucky. A registration form and other information are attached. The registration form is substantially identical to the model form prescribed by the National Association of Insurance Commissioners.

The Liability Risk Retention Act permits states to regulate various business practices of liability risk retention groups. Unlike most states, in Kentucky, the Commissioner of Insurance is not the agent for service of process on insurers. Instead, this function is performed by the Secretary of State. A form for designation of the Secretary of State as agent for service of process is attached.

The Liability Risk Retention Act requires that an annual statement, as filed with the insurance supervisory official in the group's domiciliary state, be filed with the insurance supervisory official in every state where the group is doing business. The latest annual statement must be filed with the registration form.

KRS 304.45-130 prohibits solicitation, negotiation, or procurement of liability insurance in Kentucky can be done only by persons licensed as insurance agents. However, no license is required of salaried employees of a risk retention group not compensated based on the volume of business. The registration form requires the risk retention group to identify its agents. If the risk retention group has no licensed agents, information on agent licensing may be obtained from the Agent Licensing Division, Kentucky Department of Insurance, P. O. Box 517, Frankfort, Kentucky 40602-0517, (502) 564-6004.

The Liability Risk Retention Act authorizes states to require liability risk retention groups to comply with unfair claims settlement practices laws and regulations. Copies of KRS 304.3-200, 304.12-220, and 304.12-230, and 806 KAR 12:092 are attached.

Liability risk retention groups must pay several types of premium taxes. KRS 304.45-080. Those which will be most commonly applicable are Kentucky local government premium taxes (rates vary from 2% to 14%, plus a collection fee), a 2% state tax, and a 1.5% property and casualty insurance surcharge. Kentucky local government premium taxes are administered by the Kentucky Department of Insurance, but payments are made directly to the local governments where risks are located. KRS 91A.080, Department regulations 806 KAR 2:090, 2:095, 2:096, and 2:097, the Kentucky local government premium tax schedule (current edition -- a new edition comes out twice a year), and forms MT 140 and 141 are attached.) In the Kentucky local government

premium tax schedule, the tax rates under the heading "casualty/liability only" apply to business written by liability risk retention groups.

The 2% state tax and the 1.5% property and casualty insurance surcharge are administered by the Kentucky Revenue Cabinet. To obtain forms and instructions, contact the Kentucky Revenue Cabinet, Miscellaneous Tax Unit, 200 Fair Oaks, Frankfort, Kentucky 40601, (502) 564-2198.

Attachments:

1. Registration Form
2. Appointment for Agent for Service of Process
3. Unfair Claims Settlement Practices Statutes and Regulations
4. Kentucky Local Government Premium Tax Information

FORM 950